

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

**VISCARIA CONSULTING AND SERVICES, LLC
DEBTOR**

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Bankruptcy Case No. 19-35993-H4-11

**APPLICATION TO EMPLOY RUSSELL VAN BEUSTRING OF
THE LANE LAW FIRM, PLLC AS ATTORNEY FOR THE DEBTOR-IN -POSSESSION**

NOTICE PURSUANT TO LOCAL RULE 9013

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED.

IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTING WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THOUGH THEIR ATTORNEY.

TO HONORABLE CHRISTOPHER M. LOPEZ, UNITED STATE BANKRUPTCY JUDGE:

Viscaria Consulting and Services, LLC (the "Debtor"), files this Application to Employ Russell Van Beustring of The Lane Law Firm, PLLC. ("Lane") as Attorney for the Debtor-In-Possession (the "Application"), pursuant to 11 U.S.C. §§327 and 328, and Federal Rule of Bankruptcy Procedure 2014. In support of the Application the Debtor relies upon the Affidavit of Attorney Russell Van Beustring, The Lane Law Firm, PLLC (the

"Beustring Affidavit"), attached as Exhibit "A" and incorporated herein for all purposes.

The Debtor presents this Application and respectfully represents the following:

I. Jurisdiction, Venue and Background

1. This Court has jurisdiction to consider the Application pursuant to 28 U.S.C. §1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are Sections 327 and 328 of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") and Local Rule 2014 of the Local Court Rules of the United States Bankruptcy Court for the Southern District of Texas.

Background

3. On October 28, 2019 ("Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532 ("Bankruptcy Code").

4. The Debtor continues to manage and operate its consulting business as Debtor-In-Possession pursuant to §§1107 and 1108 of the Bankruptcy Code. No creditors' committee has been appointed in this case by the United States Trustee. Further, no trustee or examiner has been requested or appointed.

5. A further description of the background of the Debtor, and the events leading up to the filing of the voluntary petition by the Debtor will be set out in other pleadings. However, Debtor's primary reason for filing bankruptcy was to: (i) protect the Debtor from

the collection efforts of creditors; and (ii) provide the means to propose a reasonable and feasible repayment plan for the repayment of its debts.

Retention of Russell Van Beustring of The Lane Law Firm, PLLC

6. The Debtor has retained Russell Van Beustring, and The Lane Law Firm, PLLC (collectively, the “Attorney”) to represent it in its Chapter 11 Bankruptcy Case because this firm specializes in bankruptcy matters and the attorneys and staff possess substantial experience and knowledge in the area of bankruptcy.

Engagement of Proposed Attorney

7. In connection with the performance of their duties and obligations as debtors in possession, the Debtors now request authority to employ Russell Van Beustring, of The Lane Law Firm, PLLC as its attorney in this bankruptcy case, effective as of the Petition Date.

8. Section 327(a) of the Bankruptcy Code provides: “the trustee, with the court's approval, may employ one or more attorneys ... that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.” 11 U.S.C. § 327(a).

9. Debtors seek to retain LANE to provide the Debtors with legal advice and services with respect to the cases, the debtors’ powers and duties as debtors in possession, and the continued operation of the Debtors’ business and management of the Debtors’ property, including but not limited to the following:

- a. to assist, advise and represent the Debtors relative to the administration of the chapter 11 case;
- b. to assist, advise and represent the Debtors in analyzing the Debtors’ assets and liabilities, investigating the extent and validity of lien and claims, and participating in and reviewing any proposed asset sales or dispositions;

- c. to attend meetings and negotiate with the representatives of the secured creditors;
- d. to assist the Debtors in the preparation, analysis and negotiation of any plan of reorganization and disclosure statement accompanying any plan of reorganization;
- e. to take all necessary action to protect and preserve the interests of the Debtors;
- f. to appear, as appropriate, before this Court, the Appellate Courts, and other Courts in which matters may be heard and to protect the interests of Debtors before said Courts and the United States Trustee; and
- g. to perform all other necessary legal services in these cases.

10. Under the terms of employment, the Attorney has agreed to represent Debtor, subject to the approval of the Court, based on time and standard billing charges of \$425.00 per hour for Russell Van Beustring, \$250.00 per hour for associate attorneys, and \$175.00 per hour for the bankruptcy legal assistants and \$75 per hour for support staff.

LANE Disinterestedness

11 Russell Van Beustring, and LANE do not represent any interest adverse to the Debtor or its estate, nor do they have any connections with the Debtor, creditors, or any other party in interest, its attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee.

12. LANE received a retainer on or about October 28, 2019, from Viscaria Consulting and Services, LLC. in the amount of \$20,000 for financial advice and representation of the Debtor.

13. To the best of Debtor's knowledge, information and belief, except as set forth above LANE, has no connection with Debtors' creditors, parties-in-interest or

affiliates, or attorneys or accountants for any of them, the United States Trustee, or any person employed in the Office of the United States Trustee. Moreover, the Debtor does not have any relationship with the United States Trustee, or with any employee of the United States Trustee, in the region which this case is pending. To the extent that the Beustring Affidavit discloses any connection, the Debtor believes it is not sufficient to prohibit employment as counsel.

14. Based upon the Beustring Affidavit and Debtors' knowledge, Russell Van Beustring and LANE do not represent any interest adverse to the Debtor, its estate, creditors, equity holders, or affiliates in the matters upon which LANE is to be engaged, and is a "disinterested person" within the meaning of section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, and as required by section 327(a) of the Bankruptcy Code.

Reimbursement of Expenses

15. The Debtor has been advised by LANE that disbursements for expenses are not included in LANE's hourly rates and will be separately billed as expenses of this proposed engagement. Such disbursements for expenses may include, without limitation, charges for photocopying, courier services, document retrieval costs, printing, computer-assisted legal research, postage, long distance, telecopier, deposition fees, filing fees, witness fees, subpoena fees, parking fees, tolls, travel expenses (including mileage), and any fees for outside contract services. In certain cases, charges are set by the service providers or outside contractors and in other cases, LANE establishes a customary charge. Subject to the limitations set forth in General Order 2001-2, LANE will charge the actual cost of these expenses in a manner and at rates consistent with charges made to LANE's other clients.

Prayer

WHEREFORE, Debtor hereby requests that it be authorized to employ Russell Van Beustring of The Lane Law Firm, PLLC to represent the Debtor as Debtor-in-possession in these bankruptcy proceedings under Chapter 11 of Title 11, United States Code, effective as of the Petition Date and that the Debtor has such other and further relief as is just.

Dated: May 22, 2020

Viscaria Consulting and Services, LLC

By: Jeannette Sappington

Jeannette Sappington, Owner/Agent/Manager

THE LANE LAW FIRM, PLLC

/s/ Russell Van Beustring

RUSSELL VAN BEUSTRING
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Houston, Texas 77036
(713) 595-8200 Voice
(713) 595-8201 Facsimile
Admissions I.D. No. 14017
Texas Bar No. 02275115

PROPOSED COUNSEL FOR DEBTOR

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Application to Employ Counsel was served upon the US Trustee and to the parties listed on the attached service list below either via electronic notice by the court's ECF noticing system or by United States first class mail, postage prepaid, on May 22, 2020:

/s/ Russell Van Beustring

Russell Van Beustring

U.S. Trustee (Via ECF)

U.S. Trustee
515 Rusk Ste 3516
Houston, TX 77002
Email: Hector.Duran.Jr@usdoj.gov

Parties Requesting Notice (Via ECF)

Christopher V Arisco on behalf of Creditor Green Capital Funding, LLC
carisco@padfieldstout.com

Christopher V Arisco on behalf of Creditor Silver Cup Funding, LLC
carisco@padfieldstout.com

Tara L Grundemeier on behalf of Creditor Harris County
houston_bankruptcy@publicans.com

Mark W. Stout on behalf of Creditor Green Capital Funding, LLC
ms@livepad.com

Mark W. Stout on behalf of Creditor Silver Cup Funding, LLC
ms@livepad.com

US Trustee
USTPRegion07.HU.ECF@USDOJ.GOV

20 Largest Unsecured Creditors (Via Regular Mail)

EBF Partners, LLC dba Everest Business Funding
C/O Maurice Wutscher LLP
23611 Chagrin Blvd. Suite 207
Beachwood, OH 44122

Green Capital Funding, LLC
C/O Shanna M. Kaminski
160 W. Fort Street
5th Floor
Detroit, MI 48226

Forward Financing LLC
100 Summer Street
Suite 1175
Boston, MA 02110

Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346